



August 29, 2001

Mr. Miles T. Bradshaw
Senior Assistant General Counsel
Houston Independent School District
Hattie Mae White Administration Building
3830 Richmond Avenue
Houston, Texas 77027-5838

OR2001-3821

Dear Mr. Bradshaw:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 151344.

The Houston Independent School District (the "school district") received a request for several categories of information, including any school district plans for acquiring property in Bellaire, Texas. You state that the school district seeks to withhold only three documents responsive to the request. Because you do not seek to withhold the remainder of the requested information, we assume that you have released the remainder of the information to the requestor. *See* Gov't Code § 552.021, .301, .302. With respect to the information you seek to withhold, you claim that the information is excepted from disclosure under sections 552.101 and 552.105 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.105(2) excepts from required public disclosure information relating to "(1) the location of real or personal property for a public purpose prior to public announcement of the project" as well as "(2) appraisals or purchase price of real or personal property for a public purpose prior to the formal award of contracts for the property." Section 552.105 protects a governmental body's planning and negotiating position with respect to particular transactions. *See* Open Records Decision No. 564 at 2 (1990). This exception protects information relating to the location, appraisal, and purchase price of property until the transaction is either completed or canceled. *See* Open Records Decision Nos. 357 at 3 (1982), 310 at 2 (1982). A governmental body may withhold information the release of which would impair or tend to impair the governmental body's "planning and negotiating position in regard to particular transactions." Open Records Decision No. 222 (1979). The question of whether specific information, if publicly released, would impair a

governmental body's planning and negotiation position in regard to particular transactions is a question of fact. Accordingly, this office will accept a governmental body's good faith determination in this regard, unless the contrary is clearly shown as a matter of law. See Open Records Decision No. 564 (1990).

The submitted information relates to the location and purchase price of real property the district is contemplating purchasing. You indicate that the release of this information could "hamper the [school] district's ability to acquire the most advantageous real property configuration . . . as well as its negotiating position in attempting to acquire" the property at issue. Finally, you state that no formal project has been approved or announced and no contract for the purchase of any property at issue has been executed. Based on your arguments and our review of the submitted information, we agree that the submitted information is excepted from disclosure under section 552.105 of the Government Code and therefore may be withheld.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

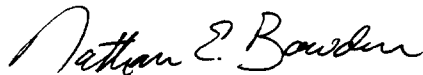
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Tex. Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in cursive script, reading "Nathan E. Bowden".

Nathan E. Bowden
Assistant Attorney General
Open Records Division

NEB/sdk

Ref: ID# 151344

Enc: Submitted documents

c: Ms. Mary Heafner
5110 Mimosa
Bellaire, Texas 77401
(w/o enclosures)